

Monthly Conference Call With Superintendents and Charter School Administrators



Agenda

- Agenda:
 - Overview of SB 1108/Prop 1, Issues We Are Investigating
 - Overview of SB 1110/Prop 2, Issues We Are Investigating
 - Overview of SB 1184/Prop 3, Issues We Are Investigating
 - Q and A related to Referendums and all other subjects
 - Next Webinar



Webinar Guidance

- Webinar Procedures:
 - Audio will be disabled for participants during webinar.
 - Participants may type question in the question box at any time during the presentation. Those questions will be answered at the end of the presentation and during the Q and A time.



Issues and Guidance Related to Propositions 1, 2 and 3



SB 1108/Prop 1

- Issue: Tenure
- Citation: 33-515
- Question: Do teachers who would have been given a continuing contract this school year, but weren't due to these laws, immediately have to be given a continuing contract, or is their current contract valid through the end of the contract term? If the current contract is valid through the end of the year, can a district opt not to offer a new contract for the following year, and simply give written reasons for nonrenewal, as is currently provided for Category A and B contracts?



SB 1108/Prop 1

- Attorney General's Guidance:
 - “For purposes of continuing agreements (tenure), contracts for this school year have already been entered into and remain in effect until amended, re-negotiated, or terminated. Repeal of the law creates a scenario wherein the agreements currently in use do not match the statutory terminology as it existed in 2010. It is recommended that the Legislature reconcile the types of contracts available to school districts with those in actual use to provide for standardization and clarity. This issue can also be resolved through entry into an appropriate agreement at the next contract entry point. As far as its effect on individual teachers, school districts should discuss specific situations with the school district's attorney.” –Memo to Goedde, Nov. 9th, 2012



SB 1108/Prop 1

- Departments Action:
 - N/A
- Legislative Action:
 - Legislature may want to pass an emergency piece of legislation that would address the transition from Students Come First Category A and B Contracts to Category 1, 2, 3, and Continuing Contract Status for clarity.



SB 1108/Prop 1

- Issue: Master Agreements and Evergreen Clause
- Citation: 33-1271A
- Question: Will the previous Master Contract come back into force immediately? What is the status of evergreen clauses that were invalidated by SB 1108? What is the status of the current Master Agreement signed (or imposed) in Spring 2012? Does it continue in force through the end of its term (the end of the 12/13 school year)? Could the current agreement be re-opened immediately?



SB 1108/Prop 1

- Attorney General's Guidance:
 - “If a school district has entered into an agreement under the terms of S. 1108, that agreement remains in effect until it is amended. This office's understanding is that agreements entered into under S. 1108 were more restricted in the scope of the subjects that they could address, than those entered into under the prior law. Therefore any agreement entered under the repealed statute into would likely remain valid until expiration, amendment, or re-negotiation. Additionally, the specific terms of the individual agreements may indicate the conditions under which re-negotiation, termination, or amendment occur... the existing contracts should remain valid until they are renegotiated or amended. It is up to the school districts to determine what is in their best legal interests with regard to their existing agreements and future agreements.” –Memo to Goedde, Nov. 9th, 2012



SB 1108/Prop 1

- Issue: Seniority and Reduction in Force
- Citation: 33-522
- Question: What standards would a district use if a reduction in force is needed upon the conclusion of this school year?



- **Attorney General's Guidance:**
 - “Provided the school district acted in a manner consistent with the law as it existed on the day that the decision regarding a Reduction in Force, no mechanism exists to overturn that decision. The referenda simply repealed the law and re-established it as of 2010 effective the date the Governor issues his proclamation (Contemplated date of action November 21, 2012). Any decisions made while the law is effective should be legally defensible.” –Memo to Goedde, Nov. 9th, 2012



SB 1108/Prop 1

- Issue: Early Retirement Bonuses
- Citation: 33-1004G
- Question: Would the state have to pay an early retirement bonus to teachers who retired after the 10/11 or 11/12 school years, and who would have qualified under the old law, but were prevented from doing so by SB 1108?



SB 1108/Prop 1

- Attorney General's Guidance:
 - We are currently seeking an Attorney General's opinion on this issue.



SB 1108/Prop 1

- Issue: Teacher Evaluation
- Citation: 33-514, 33-514A, 33-515
- Question: Assuming that teachers will continue on their Category A and B contracts for the remainder of this school year, how many evaluations are they required to have this year and are those evaluations required to include parent input and student achievement? Are Category A Contracts equal to Category 1 or Category 2 contracts for the purpose of evaluation? Are Category B Contracts equal to Category 2 or Category 3 contracts for the purpose of evaluation?



- Attorney General's Guidance:
 - We are currently seeking an Attorney General's opinion on this issue.
 - We recognize the time sensitive nature of this question given the fact that 33-514 requires the first of two evaluation for Category 2 and 3 teachers to be completed prior to January 1.



SB 1108/Prop 1

- Department/Legislative Action:
 - Growth in student achievement and multiple measures like parental input were both requirements of the ESEA Waiver Application.
 - Since these two evaluation requirements have been overturned, we need to pass board rule or statute to address this to still be in compliance with the ESEA Waiver requirements
 - We have plenty of time to resolve this before it would impact our waiver since the waiver guidance did not require states to implement these evaluation requirements until 2014.
 - The plan that we outlined for the US Department of Education on a recent call is to reconvene the Educator Evaluation Task Force and have them give us guidance on rule revisions to that will address the need for student achievement and multiple measures as part of the overall teacher and principal evaluation.
 - We would then take these rules to the State Board of Education in the spring.
 - The US Department of Education is supportive of this plan and the timeline.



SB 1110/Prop 2

- Issue: Pay for Performance
- Citation: 33-1004I
- Question: If SDE pays the PFP money to school districts on November 15th, what happens to that money on and after November 21st if a school district did not pay out the bonus money to teachers prior to November 21st?



SB 1110/Prop 2

- Attorney General's Guidance:
 - "...the most legally defensible conclusion is that the repeal of S. 1110 applies prospectively and that school districts would have through December 15, 2012, to complete payment of Pay for Performance bonuses to eligible certificated staff. Based upon this analysis, there does not appear to be any legal impediment to school districts fulfilling their ministerial duty to make complete the Pay for Performance distributions."
 - Memo, Nov. 9th, 2012



SB 1184/Prop 3

- Issue: Use It or Lose It Flexibility
- Citation: 33-1004(5)
- Question: Since SB 1184 gave districts additional flexibility on “use it or lose it”, some districts have chosen to accommodate budget cuts enacted by the Legislature through its budgeting process by hiring fewer teachers than the state funds, which they could do without penalty. Since SB 1184 was repealed, is the state now required to withhold state funds from districts that hired fewer teachers than the state allotment, as the law previously required?



SB 1110/Prop 2

- Attorney General's Guidance:
 - "...the issue of whether school districts may employ fewer positions than those funded by the State without a reduction in funds would likely be controlled by the 2010 version of 33-1004(5)." –Memo, Oct. 26th, 2012
 - No Use It or Lose It Flexibility, except for the return to 5% Virtual Use It or Lose It



SB 1110/Prop 2

- Department Action:
 - We will pay at the 5% Virtual Use It or Lose It
- Legislative Action:
 - The Legislature could pass an emergency bill to fix this for this year so that districts do not lose their funding.



SB 1184/Prop 3

- Issue: One Year Freeze on Education Salary Grid
- Citation: 33-1004A
- Question: Since SB 1184 unfroze the one frozen year of education movement on the salary grid, would the state have to deduct funding from school districts for FY13, based on the one year education freeze coming back into force since SB 1184 was repealed?



SB 1110/Prop 2

- Attorney General's Guidance:
 - "...the issue concerning teacher advancement on the multiplier scale will provide that 'for the time period July 1, 2010, through June 30, 2011, instructional and administrative staff shall not advance on the education portion of the multiplier table'. This conclusion is reached regardless of whether HB 345 or the 2010 version of 33-1004A is controlling." –Memo, Oct. 26th, 2012
 - Education freeze reinstated for new credits that were applied July 1, 2010 through June 30, 2011



SB 1110/Prop 2

- Department Action:
 - Due to the complexity of implementing this freeze, we will not attempt to do so until the May 2013 payment.
- Legislative Action:
 - Legislature could pass an emergency bill to eliminate education credit freeze.



SB 1184/Prop 3

- Issue: Classroom Technology Funding and Online Clearinghouse Funding
- Citation: 33-1022
- Question: The state will have distributed half of the classroom technology money as of November? Since SB 1184 has been repealed, what is the status of the money that has already been distributed (Do districts have to give it back? If not, what are the rules for how they can spend it?)? What about the money that has yet to be distributed?



SB 1110/Prop 2

- Attorney General's Guidance:
 - "...it appears there would be no existing law on this issue. Without any controlling law on this issue, it would also be uncertain as to what school districts could do with funds received from the State for technology purposes but not yet spent by the school districts. As a result, even though the controlling law (or lack thereof) is relatively clear, remedial legislation is most likely necessary to specify the appropriate uses of the funds at issue." –Memo, Oct. 26th, 2012



SB 1110/Prop 2

- Department Action:
 - Safest legal course is that districts should continue to spend money that has already been distributed according to their approved technology plan.
 - Money yet to be distributed will not be distributed.
- Legislative Action:
 - Legislature could run an emergency bill that would allow the SDE to distribute the remaining technology dollars out to districts.



SB 1184/Prop 3

- Issue: Dual Credit for Early Completers
- Citation: 33-1626
- Question: What happens with the district reimbursement for districts whose eligible students have signed up for the Dual Credit for Early Completers program?



SB 1110/Prop 2

- Attorney General's Guidance:
 - "...it appears there would be no existing law on this issue. Without any controlling law on this issue, it would also be uncertain as to whether school districts were entitled to distributions from the State for expenditures related to this program. As a result, even though the controlling law (or lack thereof) is relatively clear, remedial legislation is most likely necessary to specify the appropriate uses of the funds at issue." –Memo, Oct. 26th, 2012



SB 1110/Prop 2

- Department Action:
 - Department paid all Fall 2012 district reimbursements on 11/20/12, based on data submitted, and will consider any corrections to the data moving forward, including omissions.
 - We will not be able to pay out for second semester Dual Credit Courses.
- Legislative Action:
 - Legislature could run an emergency bill that would allow the SDE pay out second semester Dual Credit Courses and continue this program.



SB 1184/Prop 3

- Issue: Funding for Math and Science Graduation Requirement
- Citation: 33-0121
- Question: What is the status of the state's allocation of additional funds for school districts to meet the state's enhanced math and science requirements in high school?



SB 1110/Prop 2

- Attorney General's Guidance:
 - "...it appears there would be no existing law on this issue. Without any controlling law on this issue, it would also be uncertain as to whether school districts were entitled to distributions from the State for expenditures related to this program. As a result, even though the controlling law (or lack thereof) is relatively clear, remedial legislation is most likely necessary."



SB 1110/Prop 2

- Department Action:
 - We are currently seeking additional guidance from the Attorney General's Office on this issue.
- Legislative Action:
 - The Legislature could run an emergency bill that would allow the SDE to distribute these funds to districts since the additional Math and Science requirements did not go away and districts have hired teachers accordingly.



SB 1184/Prop 3

- Issue: Online Graduation Requirement
- Citation: 33-1627(6) and IDAPA 08.02.03.105.01.i
- Question: What is the status of the State Board of Education's rule requiring two credits of online courses for high school graduation since SB 1184 was repealed?
 - The State Board of Education has repealed this requirement.



Repealed Budget Items

- Technology-\$4,036,700 not yet be distributed
- High School Redesign Math/Science Teachers- \$4,850,000
- Dual Credit for Early Completers- \$842,400
- One-to-One Laptop Program, Year One-\$2,558,800
- Education Credits Lost- \$4,000,000
- Use It or Lose It Flexibility- \$24,600,000
- TOTAL LOST FOR SCHOOLS- \$40,887,900



Restored Budget Items

- Early Retirement Incentive Program for Teachers- \$3,600,000
- National Board Certification Awards- \$111,000
- Return of re-allocated “5th Factor” funds to salary-based apportionment- \$14,789,200
- **TOTAL GAINED FOR SCHOOLS - \$18,500,200**



Next Steps

- Districts should continue to notify us with their questions.
- As we receive new questions, we will continue to request opinions from the Attorney General's Office.
- As each opinion is delivered from the AG's Office, we will distribute them directly to school districts.
- Some questions cannot be answered by the AG, but rather district legal counsel.



Next Webinar

- Proposed Time:
 - Tuesday, December 18th from 3:30-4:30 MT
- Topic:
 - Smarter Balanced Assessment Consortium and Common Core State Standards



Regional Superintendent Meetings

- We still want to ensure that we are meeting your unique and specific needs in each region.
 - If you as a region have a specific topic that you would like someone from the SDE to do a presentation on, we would be happy to attend one of your monthly meetings either in person or by phone.
 - To schedule this, you can either reach out directly to the SDE employee or contact any one of the Deputy Superintendents.

